IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 13 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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B.I.F.R. - Petitioner(s)
Versus
C.M.D., SURBHI PRINTS LTD. & 6 - Respondent(s)

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Appearance :

BOARD OPINION for Petitioner(s) : 1,
MR RD DAVE for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2, 5,
MR AMAR N BHATT for Respondent(s) : 3,
MR NAVIN K PAHWA for Respondent(s) : 4, 7,
MR PJ MEHTA for Respondent(s) : 6,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 14/02/2007

ORAL JUDGMENT

The present company petition arises from the opinion dated 5/14th January 2004 provided by the

Registrar of the BIFR in case No.67 of 2000 based on minutes of the proceedings dated 22-12-2003 before the BIFR. The BIFR has recommended by forming an opinion under section 20(1) of the Sick Industrial Companies (Special Provisions) Act, 1985 that M/s Surbhi Prints Ltd. should be wound up.

2. After the present company petition was registered, the present company petition was adjourned at the instance of the respondent company by submitting that against the aforesaid opinion of the BIFR, the company has taken up the matter to AAIFR and therefore, this present company petition was adjourned time and again.

3. On 6-2-2007, Shri RD Dave, learned advocate appearing on behalf of the respondent No.1 company has submitted that as on today, no proceedings are pending before the BIFR and AAIFR and he wants to make submissions on merits on the recommendation of the BIFR and therefore the matter was adjourned to 13-2-2007. Thereafter, the matter was adjourned to 14-2-2007. Shri Dave has not made any submission to the satisfaction of this Court against the observations and recommendations of the BIFR. Shri Dave is unsuccessful in pointing out any error and/or any defect in the opinion of the BIFR. No other submissions have been made on behalf of the respondent company.

4. On going through the opinion and the

recommendations of the BIFR and the summary record of the proceedings of the hearing held on 22-12-2003 before the BIFR, the BIFR has observed that there was no rehabilitation proposal with the means of finance fully tied up for the consideration of the Board, in spite of sufficient time and opportunity having been given to all concerned. It is also further observed by the BIFR that having explored/exhausted all possibilities of rehabilitating the company including change of management, the Board on 29-9-2003 formed a prima facie opinion that the company could not be rehabilitated. There was no progress in the matter as reported by the secured creditors and the company itself, the Bench reiterated its earlier conclusion that despite allowing adequate time and opportunity to the company/promoters and exploring other possible avenues also, it had not been possible to work out any acceptable revival scheme which could have enabled the company to turn its networth positive within a reasonable time frame while discharging all its due financial obligations. By making the aforesaid observations, the Bench confirmed its earlier prima facie opinion dated 29-9-2003 that it would be just, equitable and in public interest if the sick company M/s Surbhi Prints Ltd was wound up in terms of section 20(1) of the Act. Considering the opinion of the BIFR and no further progress shown with regard to other secured creditors, except the IDBI considering the opinion of the BIFR, the same is accepted and the respondent company i.e. M/s Surbhi Prints Ltd. is required to be ordered to be wound

up.

5. For the reasons stated above, the respondent company i.e. Surbhi Prints Ltd. is ordered to be wound up. The Official Liquidator attached with this Court is appointed as Official Liquidator for the respondent company. The Official Liquidator is hereby directed to take possession of the property (movable and immovable) of the respondent company along with its bank accounts, cash and accounts books etc. The Official Liquidator shall submit his report within a period of three months. If required, he can take services of the Official Valuer for the purpose of preparation of possession note etc. No costs.

(M.R. SHAH, J.)

shekhar